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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,872	08/17/2001	Garnett C. Horner	LAR 15908-1	7047
7590	10/29/2003		EXAMINER	AGUIRRECHEA, JAYDI A
NASA Langley Research Center Mail Stop 212 Hampton, VA 23681-2199			ART UNIT	PAPER NUMBER
			2834	

DATE MAILED: 10/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/932,872	HORNER ET AL.	
	Examiner Jaydi A. Aguirrechea	Art Unit 2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 03 March 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-42 is/are pending in the application.

4a) Of the above claim(s) 1-21 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 22-42 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 17 August 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 1-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in communication filed on March 3, 2003.

### ***Drawings***

2. The drawings are objected to because:

- a. lines are not uniform; and
- b. numerals 28 and 14 point to the same structure.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Objections***

4. Claims 22, 29 and 37 are objected to because of the following informalities: the second electrically conductive ribbon lead positioned over and in electrical contact. The examiner assumes the conductive ribbon as being positioned on the electroded surface. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Lazarus et al. (US 5656882).

Lazarus discloses a piezoelectric (PZT) wafer (112) having a first electroded surface and a second electroded side opposite to the first electroded surface;

a first electrically conductive ribbon (111) lead positioned on and in electrical contact with the first electroded surface of the piezoelectric wafer;

a second electrically conductive ribbon lead positioned on and in electrical contact with the second electroded surface of the piezoelectric wafer; and

a layer of insulating material surrounding the piezoelectric wafer and

the first and second electrically conductive ribbon leads, the layer of insulating material (polyimide) having a coefficient of thermal expansion that is substantially greater than the coefficient of thermal expansion of the piezoelectric wafer,

the layer of curable, electrically non-conductive material compressing the piezoelectric wafer to such a degree that the piezoelectric wafer becomes highly flexible.

7. With regards to claims 29 and 37, it has been held that the recitation that an element is "capable of" performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138.

8. With regards to claims 23-26, 30-33, 37-40, it is Lazarus discloses the claimed invention except for the deposit of nickel on the electrodes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a thin layer of nickel since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. In the instant case, Francombe et al. (US 4047214) disclose that suitable metals for electrodes are gold, nickel, silver, tin, indium, aluminum, palladium, titanium, copper and platinum; therefore it would have been obvious to use a layer of nickel.

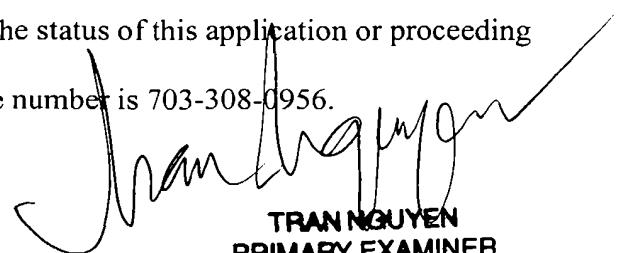
***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jaydi A. Aguirrechea whose telephone number is 703-305-2277. The examiner can normally be reached on M-Th 9-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on 703-308-1371. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

  
TRAN NGUYEN  
PRIMARY EXAMINER

JAA  
10/17/03